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SUPREME COURT OF THE UNITED STATES

**OCTOBER TERM, 1949**

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# No. 778

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YVETTE J. MADSEN,

*Petitioner,*

*vs.*

LOUIS A. JOHNSON, SECRETARY OF DEFENSE, ET AL.

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**PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.**

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DAYTON M. HARRINGTON,
*Counsel for Petitioner.*

JOSEPH S. ROBINSON,
HARRINGTON & GRAHAM,
*Of Counsel.*

SUPREME COURT OF THE UNITED STATES

**OCTOBER TERM, 1949**

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# No. 778

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YVETTE J. MADSEN

*vs.*

LOUIS A. JOHNSON, SECRETARY OF DEFENSE; FRANK PACE, JR., SECRETARY OF THE ARMY; W. STUART SYMINGTON, SECRETARY OF THE AIR FORCE; GENERAL J. LAWTON COLLINS, CHIEF OF STAFF, UNITED STATES ARMY; DEAN G. ACHESON, SECRETARY OF STATE; JOHN J. McCLOY, HIGH COMMISSIONER FOR GERMANY

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**PETITION FOR WRIT OF CERTIORARI, BEFORE JUDGMENT, TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.**

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To the Honorable Fred Vinson, Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States, Petitioner respectfully shows:

**Summary Statement of Matter Involved**

Petitioner is restrained of her liberty, pursuant to sentence of the "United States Court for the Allied High Commission for Germany", and is imprisoned in Germany. Challenging the lawfulness of her imprisonment, she peti-

tioned the United States District Court for the District of Columbia for a Writ of *Habeas Corpus* directed against Louis A. Johnson, Secretary of Defense; Gordon Gray, Secretary of the Army; W. Stuart Symington, Secretary of the Air Force; General J. Lawton Collins, Chief of Staff, United States Army; Dean G. Acheson, Secretary of State; and John J. McCloy, High Commissioner for Germany (R. 1-6). The District Court issued an Order Authorizing and Directing Respondents to Show Cause (R. 6). The Respondents filed A Motion to Dismiss Petition (R. 7). The District Court discharged the Order Authorizing and Directing Respondents to Show Cause and dismissed the Petition for Writ of *Habeas Corpus* finding that it had no jurisdiction over the person of Petitioner, and that Petitioner had not exhausted her appellate remedy (R. 8-9). Petitioner appealed from the judgment of the District Court to the United States Court of Appeals for the District of Columbia Circuit (R. 9). Such appeal is now pending in the United States Court of Appeals.

**Jurisdictional Statement**

The jurisdiction of this Court is invoked under 28 USC 1254(a).

**Questions Presented**

The questions herein presented may be stated to be:

1. Is the United States District Court for the District of Columbia, which has jurisdiction over Respondents, without jurisdiction to issue a Writ of *Habeas Corpus* merely because Petitioner is held in confinement by Respondents outside the territorial limits of the United States District Court for the District of Columbia, when Petitioner is also held in confinement by Respondents outside the territorial jurisdiction of every other United States District Court?

2. Must Petitioner continue in confinement and appeal only to her jailers for relief when her only contention is that her jailers do not now have and never have had authority to restrain her and to try and convict her and, therefore, have no authority to continue to restrain her and to hear her appeal from the order restraining her?

**Reasons Relied upon for Allowance of Writ**

The questions presented are reserved for decision by this Honorable Court in its opinion in *Ahrens* v. *Clark*, 68 S. Ct. 1443, and specifically in Footnote 4 of the said opinion. The questions presented are of great importance, involving the basic and historic remedy designed to speedily release persons from unlawful imprisonment. The decision of the United States District Court for the District of Columbia leaves Petitioner without a forum in which to complain against her alleged, unlawful deprivation of liberty, and unless this Honorable Court grants this petition for Writ of Certiorari, before judgment, to the United States Court of Appeals for the District of Columbia Circuit, or grants the application for leave to file a petition for an original Writ of *Habeas Corpus*, a citizen may be deprived of Constitutional guarantees simply because she is restrained by Respondents (or those over whom Respondents have command function) beyond the territorial jurisdiction of every United States District Court.

WHEREFORE, Petitioner prays that a Writ of Certiorari issue under seal of this Honorable Court directed to the United States Court of Appeals for the District of Columbia Circuit commanding said Court to certify and send to this Honorable Court a full and complete transcript of the record and of the proceedings had in this case numbered and entitled on its Docket, No. 10615, Yvette J. Madsen, appellant, *vs.* Louis A. Johnson, et al., appellees, to the end that

this cause may be reviewed and determined by this Honorable Court as provided for by the Statutes of the United States: and that the Judgment herein of the United States District Court for the District of Columbia be reversed by this Honorable Court; and for such other and further relief as to this Honorable Court may seem proper and just.

Dated: 24 April, 1950.

(S.) YVETTE J. MADSEN,
By (S.) DAYTON M. HARRINGTON,
*Her Counsel.*

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